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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/934,896	08/22/2001	Philip C. Nestoryak	END920010006US1	8177

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EXAMINER
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VO, TED T

ART UNIT	PAPER NUMBER
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2191

NOTIFICATION DATE	DELIVERY MODE
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03/31/2008

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PTOCommunications@hwdpatents.com

<b>Office Action Summary</b>	<b>Application No.</b> 09/934,896	<b>Applicant(s)</b> NESTORYAK, PHILIP C.	
	<b>Examiner</b> TED T. VO	<b>Art Unit</b> 2191	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 03 January 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. This action is in response to the filing on 01/03/08.

Claims 1-35 are pending in the application.

#### ***Response to Argument***

2. This is in response to arguments in Remarks filed on 01/03/08.

- With regards to the argument of the rejection under 35 USC 112, second paragraph: It should be noted that Applicants have argued that the reference of Hohndel provides only a single control file and it does not teach "providing a plurality of control files".

The evidence shows the claims and the specification are inconsistent. Therefore, the rejection for this issue is maintained.

- With regard to the argument to the rejection under the references of Hohndel and IBM RedBook: It should be noted that YaST is a stand-alone tool, embedded in various computer systems and used to load a software platform onto a computer system. As introduced by Novell, it defines:

- **Control files are the configuration files that define all the aspects of your installation.**
- Rules can be used to configure a system based on system attributes by merging multiple control files.

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- Classes are defined in a control file, and represent a configuration which is typical for a group of systems.

In the Hohndel reference, it describes YaST. It mixed the discussion of control file and configuration file. Hohndel provides a control file (customized configuration file) used to install SUSE 6.2 into a standard PC. It should be noted that a control file is only a file that can be created or generated as many as needed.

IBM uses the YaST from Novell (IBM admitted so). To load software platform such as software for a series of S/390 platforms, YaST uses another control file suitable to the requirement of the S/390 platforms.

Applicants amending and claim,

“providing a plurality of control files (not seen in the specification), each control file pertaining to a different particular software platform and having entries of computer system identifiers pertaining to the particular software platform”, and then Applicants argued that Hohndel has only “one single control file” and Applicants argued neither Hohndel nor Redbooks teach, *“providing a plurality of control files, each control file pertaining to a different particular software platform and having entries of computer system identifiers pertaining to the particular software platform”*.

Examiner disagrees. It should be YaST is the same tool that creates as many “controls files” as it could. For a PC and for a series of S/390 platforms, each of these computers requires a control file that is the same as to the claims. Therefore is no difference.

The references show YaST is as the same Tool that uses different control files to load different types of software onto different types of computer systems. The claims read on the act performed by YaST. As every ordinary in the art knows that a PC is a platform that is different from a series of S/390; and the each of S/390 platform would not be exactly the same in term of "series". The reference shows a Control file on a PC has entries to identify its software used to load on the PC. One of control files used by YaST in the series of S/390 has the entries for identifying software pertaining to the S/390 platform. By combining the references, it addresses the added features of the claims. It should be noted that the amendment necessitated new grounds of rejections presenting in this action.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-35 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1-35: The Claims recite "providing a plurality of control files" clearly is contradicted to the specification that describes only "providing a control file". Since the claims attempt to use a

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different language used in the reference and then participates in an argument, it should use the claimed language consistent to the specification. Accordingly, it does not know what its function and what its purpose are. Recitation “providing a plurality of control files” is indefinite.

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over YaST tool as disclosed by Hohndel et al, “Automated Installation of Linux Systems Using YAST”, 1999 (Hereinafter: YaST1), and by RedBooks, “e-Business Intelligence: Leveraging DB2 For Linux on S/390” (Hereinafter: YaST2).

Given the broadest reasonable interpretation of followed claims in light of the specification.

As per Claim 1: YaST discloses,

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*A method for installing a software platform onto a computer system, comprising the following steps:*

With regard to:

*designating, by a user (YaST 1, See User/Administrator in the reference), a computer system and a software platform of a plurality of software platforms to be installed on the designated computer system using a graphical user interface (refer to YaST tool);and*

With regard to:

*- querying the control file of the particular software platform corresponding to the software platform designated by the user to identify an entry having computer system identifiers that pertain to the designated computer system (YaST 1: See p. 262, right col., paragraph 6, "now the control file...", see 263, section IP Definition and Installation Source).*

With regard to:

*- "providing a plurality of control files, each control file pertaining to a different particular software platform and having entries of computer system identifiers pertaining to the particular software platform"*

See YaST1: show rc.config generated for a particularly platform ps2, i.e. with a sequence of entries (p.263). A particular software platform such as SuSE62 is identified and installed onto the ps2.

On the other hand, See YaST2: p. 57-59: it uses YaST to generate a plurality of configuration files (p. 73) to install various Linux software into an S/390 series.

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Both Hohndel (YaST1), and Redbook(YaST2) do not explicitly disclose “**a plurality of control files**”, but each of its different control file is pertaining to a different particular software platform such as SUSE62 for PC2 (Hohndel), and Linux for S/390 (Redbook).

It would be obvious to an ordinary person in the art at the time of the filing, would see each different software platform is installed onto each different computer platform using entries specified for each of software and hardware platform accordingly. It would be obvious to use a plurality of control files, where each control file is pertaining to a different particular software platform and having entries of computer system identifiers pertaining to the particular software platform, for conforming to a requirement of the types of operating system platform, provided with each particular computer platform, and as it is seen each of control files is created differently for matching the required type of platforms, by the same YaST tool.

As per Claim 2: YaST discloses, *The method of claim 1, further comprising the subsequent steps of: creating a boot disk; and loading the designated software platform onto the designated computer system using the boot disk* (YaST 1: See p.262, text under “Changes To Be Done On The Boot Disk”).

As per Claim 3: YaST discloses, *The method of claim 1, wherein the designating step comprises the steps of: entering particular computer system identifiers into the interface; and selecting a particular software platform using the interface* (YaST 1: See p.262, text under “Changes To Be Done On The Boot Disk”: In this reference the selected software platform is “Linux”).



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As per Claim 4: YaST discloses, *The method of claim 3, wherein the entering step comprises the steps of: entering a particular computer model identifier into the interface; and entering a particular computer submodel identifier into the interface* (YaST 1: See whole p.263).

As per Claim 5: YaST discloses, *The method of claim 1, wherein the entries in the control file further comprise support data* (YaST 1: See whole p.263: Examiner note: limitation recites only mere data in a file).

As per Claim 6: YaST discloses, *The method of claim 5, wherein the support data comprises licensing data and technical data* (YaST 1: See whole p.263: Examiner note: limitation recites only mere data in a file).

As per Claim 7: YaST discloses, *The method of claim 5, further comprising the step of displaying the support data from the identified entry* (YaST 1: All configuration data shown in p. 262-263 present means for displaying. Furthermore see “Linux”: It should be note that all Windows has means for displaying).

As per Claim 8: YaST discloses, *The method of claim 7, wherein the designated software platform is installed onto the computer system based upon the support data* (YaST 1: See whole p.263: see title).

As per Claim 9: YaST discloses claim 9 (See rationale discussed in claim 1 above).

As per Claim 10: YaST discloses, *The method of claim 9, further comprising the step of displaying the support data corresponding to the identified entry* (YaST 1: See p.263. the content in the control file: e.g. displaying).

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As per Claim 11: YaST discloses, *The method of claim 10, wherein the software platform is installed based upon the displayed support data* (In this case: refer the term “Installation of Linux”).

As per Claim 12: YaST discloses, *The method of claim 9, wherein the support data comprises licensing data and technical data* (YaST 1: See p.263, the content in the control file).

As per Claim 13: YaST discloses, *The method of claim 9, wherein the computer system identifiers comprise a computer model identifier and a computer sub model identifier* (YaST 1: See p.263, the content in the control file includes the settings such as AUTO\_NET, AUTO\_NAMESERVER, AUTO\_NAME, etc.).

As per Claim 14: YaST discloses claim 14 (See rationale discussed in claim 1 above).

As per Claim 15: YaST discloses, *The method of claim 14, wherein the support data comprises licensing data and technical data* (YaST 1: p. 263, see the information in the control file including the settings).

As per Claim 16: YaST discloses Claim 16 (See rationale discussed in claim 1 above).

As per Claim 17: YaST discloses, *The system of claim 16, wherein the interface comprises: an entry system for entering computer system identifiers; and a selection system for selecting a software platform* (YaST 1: See p. 263, information in control file and settings).

As per Claim 18: YaST discloses, *The system of claim 16, wherein the computer system identifiers comprise a computer model identifier and a computer sub model identifier* (YaST 1: See p. 263, information in control file and settings).

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As per Claim 19: YaST discloses, *The system of claim 16, wherein the control file comprises entries, and wherein each entry includes computer system identifiers and support data* (YaST 1: See p. 263, information in control file and settings).

As per Claim 20: YaST discloses, *The system of claim 19, further comprising a display system for displaying the support data from the identified entry* (YaST 1: See p. 263, information in control file and settings are displayable).

As per Claim 21: YaST discloses, *The system of claim 19, wherein the selected software platform is loaded onto the computer system based upon the displayed support data* (In this case, refer to installation disclosed in the reference).

As per Claim 22: YaST discloses, *The system of claim 16, wherein the selected software platform is an operating system* (In this case, refer to Linux, an operating system).

As per Claim 23: YaST discloses Claim 23 (See Examiner's rationale addressed in Claim 1).

As per Claim 24: YaST discloses Claim 24, *wherein the entry system and the selection system comprise an interface* (See Examiner's rationale addressed in Claim 17).

As per Claim 25: YaST discloses Claim 25, *wherein the computer system identifiers comprise a computer model identifier and a computer submodel identifier* (See Examiner's rationale addressed in Claim 18).

As per Claim 26: YaST discloses Claim 26, *wherein the control file comprises entries, and wherein each entry includes a computer model identifier, a computer submodel identifier, and support data.*

(See Examiner's rationale addressed in Claim 19).

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As per Claim 27: YaST discloses Claim 27, *further comprising a display system for displaying the support data from the identified entry* (See Examiner's rationale addressed in Claim 20).

As per Claim 28: YaST discloses Claim 28, *wherein the selected software platform is installed onto the computer system based upon the displayed support data* (See Examiner's rationale addressed in Claim 8).

As per Claim 29: YaST discloses Claim 29 (See Examiner's rationale addressed in Claims 16, 20).

As per Claim 30: YaST discloses Claim 30 (See Examiner's rationale addressed in Claim 16).

As per Claim 31: YaST discloses Claim 31 (See Examiner's rationale addressed in Claim 17).

As per Claim 32: YaST discloses Claim 32 (See Examiner's rationale addressed in Claim 18).

As per Claim 33: YaST discloses Claim 33 (See Examiner's rationale addressed in Claim 19).

As per Claim 34: YaST discloses Claim 34 (See Examiner's rationale addressed in Claim 20).

As per Claim 35: YaST discloses Claim 35 (See Examiner's rationale addressed in Claim 16).

### ***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ted T. Vo whose telephone number is (571) 272-3706. The examiner can normally be reached on 8:00AM to 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wei Y. Zhen can be reached on (571) 272-3708.

The facsimile number for the organization where this application or proceeding is assigned is the Central Facsimile number 571-273-8300.

Any inquiry of a general nature or relating to the status of this application should be directed to the TC 2100 Group receptionist: 571-272-2100. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>.

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Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

TTV

March 19, 2008

/Ted T. Vo/

Primary Examiner, Art Unit 2191